

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Marcus Rhodes,	)	Case No. 5:20-cv-01160-DCC
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Federal Bureau of Prisons and US	)	
Marshal,	)	
	)	
Respondents.	)	
_____	)	

Petitioner, proceeding pro se, is seeking habeas corpus relief pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings and a Report and Recommendation ("Report"). On June 19, 2020, Respondents filed a Motion to Dismiss. ECF No. 23. On June 22, 2020, this Court issued an Order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir.1975), advising Petitioner of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. ECF No. 24. Despite the explanation of the summary judgment/dismissal procedure and the possible consequences for failing to respond, Petitioner did not respond. On July 21, 2020, the Magistrate Judge issued a Report recommending that this action be dismissed. ECF No. 27. The Magistrate Judge advised the Petitioner of the procedures and requirements for filing objections to the Report and

the serious consequences if he failed to do so. He did not file objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge.<sup>1</sup> Accordingly, this action is **DISMISSED** without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).<sup>2</sup>

IT IS SO ORDERED.

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<sup>1</sup> The Court notes that mail to Petitioner has been returned as undeliverable. ECF Nos. 26, 30. Petitioner was specifically informed that it was his responsibility to keep the Court informed as to his current address. ECF No. 16.

<sup>2</sup> The Motion to Dismiss [23] is found as **MOOT**.

s/ Donald C. Coggins, Jr.  
United States District Judge

September 23, 2020  
Spartanburg, South Carolina